



**THE COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION
ONE ASHBURTON PLACE, BOSTON, MA 02108-1518**



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Walter J. Sullivan, Jr
Commissioner

June 3, 2004

**STANDING ORDER OF
COMMISSIONERS DORCA I. GOMEZ
AND WALTER J. SULLIVAN, JR.
REGARDING PRE-DETERMINATION CASE PROCESS**

Over the past several years, the Massachusetts Commission Against Discrimination has successfully reduced its backlog of cases, thus improving our client service substantially. In addition, our Client Management System has enabled us to identify and clear away other bottlenecks to effective case processing. After several months of reflecting on how we could better utilize our existing resources while at the same time reduce the turn-around time for all cases within the Enforcement Division, the Boston office has decided that our clients' needs would be best served through the realignment of our resources. This realignment is described below.

The Boston office of the MCAD has decided to adopt the Equal Employment Opportunity Commission's team approach to processing cases. As of July 1, 2004, the Attorney Assisted Unit and Pro Se Units will no longer exist. Instead, within the Enforcement Division the investigative units will be comprised of Investigators and Enforcement Advisors who will work together to ensure prompt and thorough case investigation. All cases filed at the Commission's Boston office will be investigated following the same process. The Investigating Commissioners will no longer allow parties to conduct pre-determination discovery.¹ All fact gathering at the pre-determination stage will be conducted by the Commission. Parties may request, in writing or orally, that the Commission seek certain information as part of its investigation, but all requests for information will be issued in the name of the Commission. Investigative conferences will be considered for all cases.

The process will work as follows: After the complaint is filed, the Commission will request a position statement from the respondent. Once that is received, the Commission will offer the complainant the opportunity to submit a response to the position statement. Once the response is received or none is timely filed, the Commission will determine whether an investigative conference is needed.² After a conference is held, the Commission will either issue requests for additional information to one or more parties or will determine that no more information is needed and issue a disposition. Other than the complaint and position statement, correspondence, information and documents exchanged between the Commission and any party need not be served on any other party. Parties will no longer be required to submit Memoranda of Fact and Law, though the Commission may, at times, require the parties to brief a particular issue to assist in its investigation.

¹ This new process will not apply to cases in which a pre-determination discovery order has already issued.

² Cases will continue to be screened for mediation.

With respect to pending cases:

- 1) Cases will stay with the currently assigned investigator, unless the Investigating Commissioner reassigns the case;
- 2) All cases in which a discovery order has issued will continue to follow the prior process; and
- 3) Any AAU case that has not received a discovery order will follow the new process.

All complaints filed on or after the date of this Order will follow this new process.

So ordered,

Dorca I. Gomez, Chair

Walter J. Sullivan, Jr., Commissioner